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DE RUEHLG #0595/01 2810351
ZNR UUUUU ZZH
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FM AMEMBASSY LILONGWE
TO RUEHC/SECSTATE WASHDC PRIORITY 0050
INFO RUCNSAD/SOUTHERN AF DEVELOPMENT COMMUNITY COLLECTIVE

UNCLAS SECTION 01 OF 03 LILONGWE 000595

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E.O. 12958: N/A
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SUBJECT: AGOA ELIGIBILITY REVIEW - MALAWI

REF: STATE 85086

11. Per REFTEL, Embassy Lilongwe submits the following updated AGOA eligibility information in the requested format.

12. Country: MALAWI
Current AGOA Status: Eligible

Country Background Summary: Malawi's current estimated population is about 13 million and GDP at current prices is USD 3.8 billion. Agriculture forms the mainstay of Malawi's economy and it accounts for over a third of its GDP. Tobacco, tea, and sugar together generate over 80 percent of export earnings, with tobacco providing the lion's share (over 60 percent). The agricultural sector employs nearly half of those in formal employment, and directly or indirectly supports an estimated 85 percent of the population. The government has for the past three years demonstrated strong macroeconomic management. Macroeconomic stability has been restored. Interest rates are stable and prospects for further decline in interest rates are high considering that Malawi goes for general and presidential elections next year. A single digit inflation rate has prevailed since February 2007. The exchange rate has been stable and predictable for the last three years. The country has enjoyed three years of food surplus. Foreign direct investment has tripled over the same period. AGOA continues to play an important role in the economy. AGOA exports of over USD 30 million constitute close to 8 percent of total exports. AGOA exporters employ a significant number of people; close to 5000 Malawians are currently employed in AGOA-registered apparel companies. The government of Malawi is keen to maintain its AGOA eligibility status.

Comments on Eligibility Requirements

1I. Market-based Economy:

1A. Major Strengths:

** Malawi has been following a market-based economy since its independence from Britain in 1964.

** Government participation in the market has existed along side the private sector, although the role of the private sector has grown substantially over the years.

** To speed up the government's intention to have a private sector-led economy, the government instituted a privatization program in 1996 and several companies have been privatized; others are still being considered for privatization.

** Government has pursued a number of reform programs to improve the economic environment with support of various donors including the IMF and World Bank. Development programs have been initiated to improve infrastructure, utilities, human capital and institutional management. The reforms being undertaken are broad and include stimulation of private sector activity and participation through the

elimination of price controls and industrial licensing, liberalization of trade and foreign exchange, rationalization of taxes, privatization of state-owned enterprises, and civil service reform.

** Malawi's macroeconomic stability has greatly improved over the past three years.

** Malawi operates a liberal import- and export-licensing system with restrictions largely based on health, safety and national security reasons.

** All Current Account transactions are fully liberalized.

** Domestic protection through tariffs is gradually diminishing as the government continues to shift sources of revenue collection from customs duties to consumption and direct taxes.

** In 2007, government established a commercial court division in the Malawi High Court to facilitate resolution of commercial disputes.

** In June 2008 Malawi completed a successful Millennium Challenge Account Threshold program focused on control of corruption, legislative and judicial strengthening, promoting independent media coverage, and expanding and intensifying the work of civil society organizations.

** In December 2007, Malawi was selected by the Millennium Challenge Corporation (MCC) as "compact eligible;" development is underway on a compact proposal for submission to MCC in 2009.

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1B. Major Issues:

** Barriers to economic growth, investment and trade include high transport costs, poor infrastructure, unreliable utility services especially water and energy, limited access to technology and credit, lack of capacity for quality accreditation and limited industrial skills

** Capital account transactions are still controlled.

** In 2008, the Government of Malawi displayed an increased willingness to intervene in the market. Minimum buying prices were set for tobacco, maize and cotton; government has indicated it may set minimum prices for other agricultural commodities next year.

** In August 2008, Government banned all private trade of maize, designating the parastatal Agricultural Development and Marketing Corporation (ADMARC) as the sole dealer, with set buying prices.

12. Rule of Law/Political Pluralism/ Anti-Corruption:

1A. Major Strengths:

** Malawi has an independent judiciary.

** There is a free press with significant independent participation.

** Malawi has strong governance institutions such as the Office of the Ombudsman, Law Commission and the Malawi Human Rights Commission.

** Malawi has held three democratic presidential and parliamentary elections since 1994.

** A functioning anti-corruption bureau exists.

1B. Major Issues:

** Local government elections, scheduled for 2005, have still not been held.

** The judiciary is inefficient, largely due to lack of resources such as human capital, equipment and finances.

** Continued political feuding has delayed action on needed economic legislation, such as development loans, and undermines confidence in continued economic stability. Passage of the 2008-2009 budget was delayed for three months.

** The President has refused to implement a constitutional provision regarding parliamentary floor-crossing, drawing criticism for not respecting the rule of law.

** While independent media are allowed to operate without major interference, State television and radio are used as propaganda tools against opposition parties.

13. Poverty Reduction:

1A. Major Strengths:

** Government for the past four years has sponsored an agricultural input subsidy that has improved food security for the rural and urban poor.

** Government has also begun directing resources toward irrigation programs to diminish the country's dependence on rain-fed agriculture.

** Government allocates significant resources to primary education and health services targeting the rural poor, and such resources are protected in the national budget.

** Government is implementing a poverty reduction program with assistance from the IMF, World Bank and other donors. These programs target the promotion of education, health, agriculture and private sector development.

1B. Major Issues:

** The fertilizer subsidy program has not been adequately targeted, and currently represents the bulk of the budget for the Ministry of Agriculture.

14. Human Rights/Labor/Child Labor:

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1A. Major Strengths:

** The government generally respects the human rights of its citizens.

** Malawi labor laws cover the majority of the International Labor Organization's core labor standards.

** Workers have the right to freely associate and to bargain collectively. Unions must register with the Ministry of Labor, but this is largely a formality.

** On child labor, Malawi's constitution and employment laws comply with the ILO Convention 182. The Malawi constitution complies with the Minimum Age Convention (ILO 138) and the Worst Forms of Child Labor Convention (ILO 182). Malawi has ratified both conventions.

** The government in association with the private sector, unions, employers and other stakeholders has developed and implemented a national Code of Conduct on Child Labor and placed child labor officers in each district of the country.

** Government has established Child Labor District/Area Committees, Child Labor Inspectors and Child Labor Youth Activists. All have been trained on child labor monitoring and reporting. The Child Labor Youth Activists have been equipped with bicycles donated by

UNICEF.

** Child labor offenders have been prosecuted and, if convicted can be sentenced to up to five years in prison.

1B. Major Issues:

** Union membership is low due to small workforce in the formal sector and lack of awareness about the benefits of such membership.

** Incidences of child labor seem not to be abating despite government child labor elimination programs. Many children continue to be engaged in the agricultural sector, especially on tenant farms.

** Incidences of tampering with freedom of the press have been reported though justified on account of irresponsible journalism.

** Prison conditions continue to remain harsh and a threat to human rights.

** Prisoners on remand often experience long waits before being brought to trial, especially for murder cases. The judiciary continues to lack resources to try such cases in a timely manner.

** HIV and AIDs remain the biggest threat to human life and the labor force.

15. International Terrorism/U.S. National Security

1A. Major Strengths:

** Malawi passed the Money Laundering, Proceeds, and Serious Crimes and Terrorist Financing Act in August 2006 to address money laundering and terrorist financing.

** A Financial Intelligence Unit has just been established with the help of United States government through the MCC Threshold Program that investigates irregular and large value monetary transactions.

1B. Major Issues: None.

SULLIVAN